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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/349, 676 07/08/99 ONDECK

K PHA-23.681

TM02/0524

EXAMINER

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*JANVIER, J*

ART UNIT	PAPER NUMBER
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2162  
DATE MAILED:05/24/01 *3*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

*SJM*

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/349,676	ONDECK, KRISTEN DIANE
	Examiner	Art Unit
	Jean D Janvier	2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 April 1999.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other: \_\_\_\_\_

**DETAILED ACTION**

*Specification*

The disclosure is objected to under 37 CFR 1.71, as being so incomprehensible as to preclude a reasonable search of the prior art by the examiner. For example, the term "machine" should be replaced with --apparatus or system--.

Applicant is required to submit an amendment, which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Meanwhile, for examination purpose, the Examiner will give a broad interpretation to the claims.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The abstract of the disclosure is objected to because it is not descriptive. A new abstract is required that is clearly indicative of the invention to which the claims are directed.

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be

directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

*Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because it contains non-functional and non-descriptive subject matter.

Claim 1 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either an asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemole et al, US Patent 6,009,410.

The applied reference, based upon its earlier effective U.S. filing date, constitutes a prior art under 35 U.S.C.102(e).

As per claim 1, Lemole et al teach a Customized Advertising Repository (CAR) Server 111 of fig.1 connected to the World Wide Web (Internet) 103 of fig.1 accessed by a registered user through his browser using client PC 101 of fig.1 (see abstract). When a registered user can enter a commercial context mode from information seeking work context mode by clicking on an icon or inputting the URL address of the particular CAR server which stores his customized advertising repository. Upon accessing his customized advertising repository (CAR) via the browser of his computer 101 of fig.1, a composite advertising page or pages, in the form of static images, banners, animation, video and audio clips, is dynamically configured by the CAR Server 111 of fig.1 for that specific user based on that user's demographic and psychographic data provided during registration to the service (CAR) and context dependent basis from previously visited Web sites prior to accessing the service. The user, from such dynamically configured composite page or pages, can then click on a particular image, video window or banner to visit a Web site associated with a particular advertiser's (116-121 of fig.1) such as Delta Airlines 116 of fig.1 engaging in commercial activities such as selling tickets to on-line surfers. (see abstract-col.4, line 59 to col.5 line 22).

As per claims 2, 3 and 4, Lemole et Al teach a plurality of vendors or suppliers or retailers or service providers or advertisers (116-121) connected to the CAR Server 111 of fig.1 via the HTTP Server 110 of fig.1 over the Internet 103 of fig.1 and, engaging in a plurality of on-

line commercial activities (see fig.1). A vendor or retailer such as Delta Airlines 116 of fig.1 will use a user's profile data to offer a customized package deal to the user using client 101 of fig.1 connected to the Internet 103 of fig.1 (col.4, line 59 to col.5 line 22). If the user makes a purchase as a result of the package deal offer, the CAR service will automatically update his composite page or pages next time he uses the service.

As per claims 5-9, Lemole et al teach a method comprising the steps of:

5. Wherein the merchandise or product or service is capable of being customized according to a specification from the retailer such as Delta Airlines 116 of fig.1 that can put together a package deal for a user of the service based upon the users profile data (col.4, line 59 to col.5, line 22).
6. Wherein the merchandise is capable of being customized according to input from the customer such as demographic and psychographic data provided by the customer during registration (col.4, line 59 to col.5 line 22-see abstract).
7. Wherein the customizing comprises individualizing a home page or composite page or pages for the customer (see abstract).
8. Wherein the individualizing comprises creating an advertisement banner or video/audio clips associated with a specific retailer and stored in Database 113 of fig.1 and accessed by the user upon entering the commercial context (see abstract).

9. Wherein the advertisement is user-interactive since the user, while viewing a banner Ad. associated with a particular advertiser, can click on an associated link to visit the retailer's or advertiser's site for more information (see abstract).

### Conclusion

Although US Patent 5, 724,521 to Dedrick was not used in this Office Action, it was highly considered as relevant prior. Art. Applicant is further directed to consult this reference.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at  
(703) 305-3900.



ERIC W. STAMBER  
PRIMARY EXAMINER